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**SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS**

In re Reissue Application of
Lubomyr I. Kuzmak
Appl. No. 09/205,195
Filed: December 4, 1998
For: LAPAROSCOPIC ADJUSTABLE
GASTRIC BANDING DEVICE AND
METHOD FOR IMPLANTATION AND
REMOVAL THEREOF

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LETTER
REGARDING
37 CFR 1.177

The above-identified application is a division of reissue Appl. No. 08/927,494 (now RE 36,176), which is a reissue of U.S. Patent No. 5,449,368, and has been referred to the Office of the Deputy Assistant Commissioner for Patent Policy and Projects pursuant to MPEP §1451.

The provisions of 37 CFR 1.177 currently require that all divisional reissue applications issue simultaneously. However, the parent application ('494 reissue application) has already issued.

In view of the recent CAFC decision of *In re Graff*, 42 USPQ2d 1471 (Fed. Cir. 1997), PTO policy has been modified, and the requirement of 37 CFR 1.177 for simultaneous issuance is *sua sponte* hereby waived under 37 CFR 1.183.

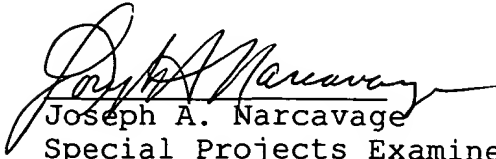
Applicant must provide by amendment a cross-reference to the sibling divisional reissue application in the first line of the specification of this application. The Office will initiate a Certificate of Correction to correct the specification in the issued patent to reflect the relationship of the application/patent.

Applicant should carefully compare the claims of this application with the claims of the issued reissue patent for consideration of possible double patenting issues and their effects.

Appl. No. 09/205,195
Art Unit 3731

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This application is being returned to Technology Center 3700 for examination.

A handwritten signature in cursive script, appearing to read "Joseph A. Narcavage", is written over a horizontal line.

Joseph A. Narcavage
Special Projects Examiner
Office of Patent Legal Administration